



Housing Advisory Commission

## HOUSING ADVISORY COMMISSION

# AGENDA

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### Regular Meeting

Thursday, January 18, 2018  
7:00 pm

### South Berkeley Senior Center

2939 Ellis Street  
Secretary Amy Davidson  
[HAC@cityofberkeley.info](mailto:HAC@cityofberkeley.info)

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### All agenda items are for discussion and possible action.

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**Public comment policy:** Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

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1. Roll Call
2. Agenda Approval
3. Public Comment
4. Approval of the November 2, 2017 Regular Meeting Minutes (*Attachment 1*)
5. Approval of the December 7, 2018 Special Meeting Minutes (*Attachment 2*)
6. **Presentation and Discussion on Recommendations for a Berkeley Home Share Program from Julie Gilgoff – Marian Wolfe (*Attachment 3*)**
7. **Discussion and Possible Action on Subcommittee Appointments and Assignments – All (*Attachment 4*)**
  - a. Homeless Subcommittee
  - b. Council Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless (*Attachment 5*)
  - c. Density Bonus Subcommittee & Housing Laws Joint Subcommittee (*Attachments 6 & 7*)
8. **Discussion and Possible Action on Recommendations to the Berkeley City Council on Supply of Rent Controlled Units Following Disaster and Possible Areas of Collaboration with Disaster and Fire Commission – Igor Tregub (*Attachment 8*)**
9. **Discussion and Possible Recommendation to the Berkeley City Council to Direct the City Manager to Support the HAC’s Review of the Smoke-Free Residential Housing Ordinance – Smoke-Free Housing Subcommittee (*Attachment 9*)**
10. **Discussion and Possible Recommendation to the City Council to Adopt a “More Student Housing Now” Resolution – Amir Wright (*Attachment 10*)**
11. **Discussion and Possible Recommendation to Council Regarding SB 827 – Thomas Lord (*Attachment 11*)**

**12. Discussion and Possible Request to Staff for Information on the Short Term Rental Ordinance Enforcement Strategy – Matthew Lewis (Attachment 12)**

**13. Update on Council Items – All/Staff**

- a. Disposition of the Kenney Cottage from City-Owned Lot in the 1200 Block of University to Make Way for Creating Needed Housing (11/14/2017)  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/2017-11-14\\_Item\\_13\\_Disposition\\_of\\_the\\_Kenney\\_Cottage.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-14_Item_13_Disposition_of_the_Kenney_Cottage.aspx)
- b. Berkeley Way Housing Development Update (1/23/2018 continued from 12/19/2017)

**14. Announcements/Information Items**

**15. Future Items**

- a. Cannabis Ordinance – City of Berkeley Environmental Health Division Staff Speaker (February)
- b. Commission Chair and Vice Chair Elections (February)
- c. Home Share Program

**16. Adjourn**

Attachments

1. Draft November 2, 2017 Regular Meeting Minutes
2. Draft December 7, 2018 Special Meeting Minutes
3. Home Share Program Recommendations from Julie Gilgoff
4. Subcommittee Roster and Assignments
5. Council Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless
6. Council Report: Establishment of a Joint Subcommittee for the Implementation of Housing Laws
7. Thomas Lord, Regarding a Joint Subcommittee for the Implementation of Housing Laws
8. Igor Tregub, Recommendations to the Berkeley City Council on Supply of Rent Controlled Units Following Disaster; Possible Areas of Collaboration with Disaster and Fire Commission
9. Smoke-Free Housing Subcommittee, Help the HAC to improve the Smoke-Free Residential Housing Ordinance
10. Amir Wright, Adopt a More Student Housing Now Resolution, to facilitate both University and private housing investment in the campus area as soon as possible
11. Thomas Lord, Provide timely input regarding Senate Bill 827's by-right development provisions
12. Thomas Lord, SB 837
13. Matthew Lewis, Schedule an agenda item for February on the city's short term rental ordinance enforcement strategy

Information Items

14. Housing Advisory Commission Communication on Berkeley Way Project (12/18/2017)
15. Adopted 2018 Meeting Calendar
16. Nexus: The National Housing Conference Policy Guide: <https://www.nhc.org/nexus-policy-guides/>

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Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Health, Housing & Community Services Department located at 2180 Milvia Street, 2<sup>nd</sup> Floor during regular business hours. Agenda packets and minutes are posted online at:  
[https://www.cityofberkeley.info/Housing\\_Advisory\\_Commission/](https://www.cityofberkeley.info/Housing_Advisory_Commission/)

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**HOUSING ADVISORY COMMISSION**  
**Regular Meeting**  
**Thursday, November 2, 2017**

Housing Advisory Commission

**Time: 7:03 pm**

**South Berkeley Senior Center**  
**2939 Ellis Street – Berkeley**  
**Secretary – Amy Davidson, (510) 981-5406**

## **DRAFT MINUTES**

### **1. Roll Call**

Present: Luis Amezcua, Xavier Johnson, Rashi Kesarwani (7:21 pm), Matthew Lewis (7:05 pm), Thomas Lord, Darrell Owens, Igor Tregub, Marian Wolfe, and Amir Wright.

Absent: None.

Commissioners in attendance: 9 of 9

Staff Present: Amy Davidson and Mike Uberti

Members of the public in attendance: 3

Public Speakers: 1

### **2. Agenda Approval**

Action: M/S/C (Amezcua/ Wright) to approve the agenda.

Vote: Ayes: Amezcua, Johnson, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: Kesarwani (unexcused).

### **3. Public Comment**

One member of the public spoke.

### **4. Approval of October 5, 2017 Meeting Minutes**

Action: M/S/C (Wolfe/Amezcua) to approve minutes.

Vote: Ayes: Amezcua, Johnson, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: Kesarwani (unexcused).

### **5. Appointment Review 9/22/2017 Brown Act Violation Cure and Correct Demand Letter from Thomas Lord and Proposed Actions in Response**

- a. Demand 1 – Rescind the current work plan and replace it with one that strictly follows the format preferred by City Council
  - i. Proposed response action: Emphasize need for formal adjournment even in a less formal meeting structure to ensure the public has an opportunity to fully participate; ensure any discussions that occurred between the work session and the regular meeting are made public now
  - ii. Proposed response action: prior to generating next work plan, review the City Council format and discuss changing to that format

- b. Demand 2 – Rescind subcommittees
  - i. Proposed response action: Schedule a Special Meeting on December 7, 2017 for a Brown Act training regarding the role, purpose and function of subcommittees then revisit subcommittees at a later date
- c. Demand 3 – Meeting process guidelines
  - i. Proposed response action: Schedule check in on the meeting process guidelines in March 2018 to ensure the concerns raised regarding misuse and discouraging full discussion have not come to fruition

Commissioner Lord recused himself as he submitted Brown Act Violation Cure and Correct Demand Letter being discussed.

Action: M/S/C (Amezcuca/Johnson) to adopt the proposed response actions under Demand 1 with amendment to send existing work plan to the City Council.

Vote: Ayes: Amezcuca, Johnson, Kesarwani, Lewis, Tregub, Wolfe, and Wright. Noes: None. Abstain: Owens. Absent: None. Recused: Lord.

The Chair invited Commissioners who attended the June 2017 work plan meeting to disclose any comments they recalled making in side conversations after the special meeting concluded and before the regular meeting began so that this information could be included in the public record. Most Commissioners stated they could not recall if they had side conversations, and none reported information for the record.

Action: M/S/C (Amezcuca/Johnson) to adopt the proposed response actions under Demand 2 with amendment to revisit subcommittees at the December 7, 2017 meeting.

Vote: Ayes: Amezcuca, Johnson, Kesarwani, Lewis, Tregub, Wolfe, and Wright. Noes: None. Abstain: Owens. Absent: None. Recused: Lord.

Action: M/S/C (Amezcuca/Johnson) to adopt the proposed response actions under Demand 3.

Vote: Ayes: Amezcuca, Johnson, Kesarwani, Lewis, Tregub, Wolfe, and Wright. Noes: None. Abstain: Owens. Absent: None. Recused: Lord.

## **6. Discussion and Possible Action on Recommendations on the Use of Measure U1 Funds from the U1 Subcommittee**

## **7. Discussion and Possible Action on Recommendations for the “Smoking Prohibited in Multi-Unit Residences” Ordinance (BMC 12.70.035) and Practices from the Smoke-Free Housing Subcommittee**

Action: M/S/C (Lord/ Kesarwani) to send recommendations to the Community Health Commission and invite their feedback to send a final recommendation to the City Council.

Vote: Ayes: Amezcuca, Johnson, Kesarwani, Lewis, Owens, Tregub, and Wright. Noes: Wolfe. Abstain: None. Absent: None.

Action: M/S/C (Lord/Johnson) to extend meeting 30 minutes.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, and Wolfe.  
Noes: None. Abstain: None. Absent: Wright.

Action: M/S/C (Lord/Tregub) to extend meeting 30 minutes.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

## **8. Subcommittee Updates**

## **9. Update on Council Items**

## **10. Announcements/Information Items**

## **11. Future Items**

## **12. Adjourn**

Action: M/S/C (Amezcua/Johnson) to adjourn the meeting at 9:50 pm.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

Approved on January 18, 2018

\_\_\_\_\_, Amy Davidson, Secretary



**HOUSING ADVISORY COMMISSION**  
**Special Meeting**  
**Thursday, December 7, 2017**

Housing Advisory Commission

**Time: 6:38 pm**

**South Berkeley Senior Center**  
**2939 Ellis Street – Berkeley**  
**Secretary – Amy Davidson, (510) 981-5406**

## **DRAFT MINUTES**

### **1. Roll Call**

Present: Luis Amezcua, Xavier Johnson, Rashi Kesarwani (6:51 pm), Matthew Lewis (6:39 pm), Thomas Lord, Darrell Owens, Igor Tregub, Marian Wolfe, and Amir Wright.

Absent: None.

Commissioners in attendance: 9 of 9

Staff Present: Paul Buddenhagen, Rachel Chatman, Amy Davidson, Michael Uberti, Jennifer Vasquez

Members of the public in attendance: 33

Public Speakers: 21

### **2. Agenda Approval**

Action: M/S/C (Wolfe/Wright) to approve the agenda.

Vote: Ayes: Amezcua, Johnson, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: Kesarwani (unexcused).

### **3. Public Comment**

### **4. Brown Act Training for Commissioners**

### **5. Public Hearing on Community Needs and Review of Accomplishments of Projects Funded with Community Development Block Grant, Emergency Solutions Grant, and HOME Funds in FY 2017**

Public Speakers: 14

### **6. Approval of the November 2, 2017 Regular Meeting Minutes**

## 7. Adopt 2018 Meeting Calendar

Action: M/S/C (Wright/Lewis) to adopt the meeting calendar for 2018:

- Thursday, January 18, 2018
- Thursday, February 1
- Thursday, March 1
- Thursday, April 5
- Thursday, May 3
- Thursday, June 7
- Wednesday, July 11
- Thursday, September 6
- Thursday, October 4
- Thursday, November 1

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

## 8. Discussion and Possible Action of Subcommittee Assignments and Appointments

Action: M/S/C (Wolfe/Amezcua) to direct subcommittees to identify and prioritize policy ideas, seek community input, and report back findings to the Housing Advisory Commission by the end date of the subcommittee assignments. The Chair or designee of the subcommittee shall furnish a report with the recommendations to the Housing Advisory Commission by the end date of the subcommittee assignments, or, if completed before the end date, it should be submitted when completed.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

## 9. Discussion and Possible Action on Recommendations on the Use of Measure U1 Funds from the U1 Subcommittee

Public Speakers: 1

Action: M/S/C (Tregub/Lord) to adopt the Recommendations on the Use of Measure U1 Funds from the U1 Subcommittee with the following amendments:

- Remove the first paragraph from page 1
- Remove the third paragraph from page 1
- Change the first sentence of the fourth paragraph on page 1 to read “The second issue is how income groups are defined for purposes of allocating U1 funds.”
- Change the first sentence of the first bullet point on page 2 to read “Initially allocate 15% for anti-displacement activities.”
- Change the second bullet point on page 2 to read “Remainder of funds to be used to maintain and increase the supply of permanently affordable housing; this may include co-operative housing.”
- Remove the third bullet from page 2
- Change the sixth bullet on page 2 to read “When appropriate, use the Housing



Trust Fund process to allocate funds.”

- Change the second sub bullet of the seventh bullet on page 2 to read “City should prepare an annual report by May of each year for the HAC and public that reports on revenues and expenditures related to U1 funds.”

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

Action: M/S/C (Wolfe/Johnson) to extend meeting 30 minutes.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

Action: M/S/C (Lord/ Johnson) to extend meeting 30 minutes.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

#### **10. Discussion and Possible Action on Recommendations for Berkeley Way Project**

Public Speakers: 5

Action: M/S/C (Tregub/Amezcua) to direct the Chair to send a letter to the City Council, to accompany the Staff information report, to provide a general statement of principles that places housing as a priority over parking, including support for housing and environmental concerns, including those identified in the Berkeley Climate Action Plan.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: Lord. Absent: None.

#### **11. Discussion and Possible Action on Recommendations on Supply of Rent Controlled Units Following Disaster and Possible Areas of Collaboration with Disaster and Fire Commission**

Public Speakers: 1

#### **12. Subcommittee Updates**

#### **13. Update on Council Items**

#### **14. Announcements/Information Items**

#### **15. Future Items**

**16. Adjourn**

Action: M/S/C (Wright/Lewis) to adjourn the meeting at 10:02 pm.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: None.

Approved on January 18, 2017

\_\_\_\_\_, Amy Davidson, Secretary

To: Igor Tregub, Chairperson, Housing Advisory Commission  
From: Julie Gilgoff  
Date: December 13, 2017  
Subject: Home Share Program

### THE NEED FOR HOME SHARE PROGRAMS

Within the City of Berkeley, many millennial workers and students struggle to find affordable housing, while most retirement-age Americans seek to stay in their homes and “age in place.” A recent nation-wide study found that there are nearly 3.6 million unoccupied rooms that could be rented out to temporary or long-term lodgers. This could supplement senior income and save money to renters, providing additional housing inventory as an alternative to new development.

Home sharing is a living arrangement in which two or more unrelated people share a house or an apartment. Home sharing programs connect homeowners or renters with extra rooms to home seekers in need of housing.

There are a variety of home share models that have been implemented around the country, which could be replicated in Berkeley.

### CITY-ENDORSED HOME SHARE PROGRAMS

The City of Fremont has officially sponsored a home share program (<https://www.fremont.gov/2375/Home-Sharing-Program>), partnering with the nonprofit organization, HIP Housing (Human Investment Project Housing). Together, they are matching home seekers who currently live, work, or go to school in Fremont, with homeowners or renters with an extra room. (<http://hiphousing.org/programs/home-sharing-program/>).

HIP screens home seekers and home providers at an interview, checking references and income verification. HIP also provides this home matching service in San Mateo County. HIP has operated their San Mateo program for over 30 years. Their program serves as the model for most replication initiatives, including those of Episcopal Senior Communities (ESC), another nonprofit screening provider, featured below.

In San Francisco, the Mayor’s Office of Housing and Community Development has partnered with Northern California Presbyterian Homes & Service and ESC, to provide a Home Match program. (<http://www.homematchsf.org/>) To take advantage of this free program, home seekers must be 18 years of old or older, earn no more than 90% of the Area Median Income, and undergo a thorough background check. To participate as a home provider, the homeowner must provide proof of home ownership and residence, give a tour of the property during the interview process, and undergo a thorough background check. Both parties must describe their ideal home arrangement, personal characteristics, meet, and decide if they are a good match to live together. Ninety percent of the San Francisco home share program is funded by the County, and is staffed by a program director and outreach manager.

ESC also administers a home share program in Marin County and the city of Concord. They are expanding elsewhere in Contra Costa County in 2018.

RECOMMENDATIONS FOR BERKELEY: To launch a city-sponsored home share program, it is advantageous to partner with a local nonprofit organization who can help with the vetting and screening process of interested parties. Episcopal Senior Communities expressed interest in expanding their services to Berkeley. It is essential to have city-backing in order to increase community member trust in the service, and to have a funding model that is not based on charging commissions to home providers or home seekers.

Although there are no age guidelines about who can participate in the home share program as a home provider or seeker, most matches are between senior home providers and younger lodgers. In some of these arrangements, reduced rent is given in exchange for the home seeker helping with chores or other household needs. These arrangements may prove advantageous for those who enjoy intergenerational living.

There are also matches made between senior home providers with other senior roommates. Tracy Powell, Vice President of Community Services at Episcopal Senior Communities expressed interest in collaborating with the East Bay-based TTN-HOME (The Transition Network) (<https://www.thetransitionnetwork.org/ttn-home/>), which administers a listserv for seniors looking for roommates. Assisting seniors in finding other senior roommates is another option in the home share program, in addition to intergenerational matching.

COST: HIP Housing's budget for running the home share program in the City of Fremont is \$75,000 per year. This is a part-time program that is operational 2-3 days per week. The budget includes the cost of renting out office space and paying staff salaries. Staff is responsible for conducting interviews, background checks, house screening, as well as follow-up support. Out of approximately 350 inquiry calls that the Fremont home share office handles annually, staff screens about 200 people per year, resulting in 25-30 home matches.

HIP Housing's San Mateo County Home Sharing Program has a budget of a little over \$900,000. They take 4,000 inquiry calls per year, screen 1,600-2,000 people, place 200 home seekers in new arrangements, and support the home sharing matches of an additional 500 persons in home sharing matches made in previous fiscal years.

In HIP's experience, there is a shortage of home providers, while there is an abundance of home seekers. Part of the funds and outreach of their Fremont and San Mateo programs is directed at finding seniors with available homes. In the City of Berkeley, collaboration with nonprofit organizations like TTN-HOME, or the U.C. Berkeley Retirement Center would reduce the resources needed to find home providers. However, both HIP and ESC have emphasized that finding home providers requires outreach to educate the community about the benefits of home sharing and the need to build trust. Home seekers typically outnumber homeowners by 10 to 1 across jurisdictions. Having City-backing would encourage home providers to participate in a program.

Episcopal Senior Communities (ESC) offers a full-time program for the cities and counties in which it works. The organization supports different forms of senior housing and promotes seniors being able to age in place. ESC uses organizational resources, and dedicates fundraising efforts to provide this service in the City of Concord and Marin County. The City of Concord is considering funding a portion of the work going forward. In SF, they receive 90% of funding from the City of San Francisco.

If Berkeley is interested in considering a Home Share Program, I can provide more detailed cost estimates in a future memo. Tracy Powell, Vice President of Community Services at Episcopal Senior Communities, may also be available to provide a presentation about a potential home share program in Berkeley at a future HAC meeting.

**HAC Subcommittee Appointments  
January 18, 2018**

<b>Name</b>	<b>Appointed by</b>	<b>Current Subcommittee Appointments</b>
Rashi Kesarwani	Maio/ District 1	CDBG Measure U1
Thomas Lord	Davila/ District 2	CDBG Moderate Income Housing Smoke-Free Housing
Igor Tregub	Bartlett/ District 3	Density Bonus HTF Low Income Measure U1 (Alternate) Moderate Income Housing
Luis Amezcua	Harrison/ District 4	Density Bonus HTF Measure U1 Student Housing
Xavier Johnson	Hahn/ District 5	Homelessness HTF Low Income Smoke-Free Housing
Marian Wolfe	Wengraf/ District 6	Density Bonus Homelessness Low Income Measure U1
Amir Wright	Worthington/ District 7	Student Housing
Darrell Owens	Droste/ District 8	
Matthew Lewis	Arreguin/ Mayor	Density Bonus HTF Low Income Measure U1 Student Housing

Notes on ad hoc subcommittees:

Subcommittee	Assignment	End date
CDBG	Advise the HAC on the current CDBG funding cycle	Upon completion of current CDBG funding cycle
Density Bonus	<ul style="list-style-type: none"> <li>• Obtain an understanding of existing state and local density bonus policies</li> <li>• Research how these policies impact Berkeley</li> <li>• Make recommendations on the subject matter to the Housing Advisory Commission</li> </ul>	June 30, 2018
Homeless	Coordinate with the Homeless Commission on matters of mutual interest	June 30, 2018
Housing Trust Fund	Advise the HAC on Housing Trust Fund related matters	June 30, 2018
Low Income Housing*	<ul style="list-style-type: none"> <li>• Explore and make recommendations on the low income housing strategies identified in the HAC's FY2018 work plan</li> </ul>	June 30, 2018
Measure U1	<ul style="list-style-type: none"> <li>• Develop recommended guidelines for the use of U1 funds;</li> <li>• Provide advice for the HAC for Council on anti-displacement programs and affordable housing to be funded with U1; and</li> <li>• Possibly discuss specific projects, avoiding overlap with other subcommittees of the HAC.</li> </ul>	June 30, 2018
Moderate Income Housing*	<ul style="list-style-type: none"> <li>• Explore and make recommendations on the moderate income housing strategies identified in the HAC's FY2018 work plan</li> </ul>	June 30, 2018
Smoke-Free Housing	<ul style="list-style-type: none"> <li>• Consider updates to the City's Smoke-Free Housing Ordinance and existing implementation of the ordinance</li> <li>• Propose revisions to these to improve the accessibility and effectiveness of the ordinance</li> <li>• Propose methods for obtaining public input into the needs of the ordinance.</li> </ul>	December 7, 2018

<p>Student Housing</p>	<ul style="list-style-type: none"> <li>• Explore and make recommendations on student housing strategies identified in the HAC's FY2018 work plan</li> <li>• Explore: <ul style="list-style-type: none"> <li>○ Master tenancies</li> <li>○ Site selection</li> <li>○ How the university finances its housing (e.g. UPP's vs revenue bonds) and privatization of UC Berkeley housing system in general</li> <li>○ Pressuring the university to force developers to meet the affordability requirements of the city (e.g. mitigation fee/in-lieu units)</li> <li>○ Developing a separate affordability definition applicable to inclusionary housing to be used in areas near campus so students can live in them</li> </ul> </li> </ul>	<p>June 30, 2018</p>
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\* 2017-2018 Work Plan priority "Lack of Funding" was referred to the subcommittees marked with an asterisk(\*). Specific strategies referred were:

- Explore other forms of taxation/revenues.
- Look at acquiring tax-default properties.
- Increase the commercial linkage fee.
- Allocate a portion of the short term rental tax.
- Use of Federal transportation funds.





Councilmember Ben Bartlett  
City of Berkeley, District 3

CONSENT CALENDAR  
December 5, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett  
Subject: Refer to the City Manager's Office and Budget Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless

RECOMMENDATION:

Refer to the City Manager's office to develop a second dwelling unit/accessory dwelling unit Pilot Project as an additional strategy to provide housing for homeless persons and families.

The pilot program should provide the following forms of technical assistance and incentives to homeowners in exchange for housing homeless families/individuals for a specified number of years:

1. Homeowners without additional units – to provide them with technical and financial assistance with the permitting and construction of new second units and ADUs
2. Homeowners with unpermitted second units – to provide them with legalization as well as financial and technical assistance in order to convert unpermitted units into permitted units

The pilot will also evaluate the following:

- Replicability/scalability
- What types of incentives will be enough to attract homeowners
- How to conduct long term monitoring
- To what extent might this approach increase housing stock

The proposed Pilot Program and budget are outlined below and will pilot the financing and construction of new second dwelling units; and the remodeling and legalization of existing unpermitted second units. The program is should be completed within 24 months of Council approval.

The Pilot Program will require a one-time program budget of \$500,000, and an additional \$50,000 for administrative costs. Funding for the program would be drawn from U1 funds.

The City should provide a maximum subsidy of \$75,000 per unit to build 2-3 new ADUs. The City should provide a maximum subsidy of \$50,000 per unit to preserve 2-3 existing unpermitted ADUs. The subsidy will be provided in the form of a soft loan or forgivable loan tied to a commitment to rent the ADU to a homeless family/individual.

<b>Line Item</b>	<b>Amount</b>
Financing Incentives for 3 new ADUs:	\$225,000
Financing Incentives for 3 Unpermitted Second Units:	\$145,000
Project Management of Unpermitted Units:	\$25,000
Administrative Costs:	\$50,000
Total:	\$445,000
Total Cost per Unit:	\$74,167

**BACKGROUND:**

Right now, we are in the crosshairs of a severe housing shortage and a disinvestment in affordable housing. Too many Berkeley residents – including seniors, individuals with disabilities, teachers and families with children – struggle to keep a roof over their heads. Waitlists for affordable housing number in thousands and stretch into years.

The limited amount of affordable housing that has been developed in the past few decades has mostly been small units in large apartment buildings. These units are being built at increasingly unsustainable costs. Large projects in Berkeley, Emeryville and San Francisco now cost well over \$500,000 per unit to develop. In fact, a recent affordable housing project in Emeryville cost nearly \$700,000 per unit.

An affordable grass roots alternatives to expensive apartment units are Accessory Dwelling Units (ADUs). ADUs are a source of affordable housing in single and multi-family neighborhoods. There are tens of thousands of potential sites in Berkeley.

The City's single- and multi-family zoned areas provide a significant opportunity to build new, and preserve existing, affordable housing. Encouraging accessory dwelling units in general is a homeless prevention strategy. In addition, the Pilot Program will focus on housing homeless individuals/families directly in accessory dwelling units.

The purpose of the pilot would be to empower Berkeley homeowners to play a more direct role in rehousing the homeless, streamline the permitting process, provide technical assistance to homeowners, provide incentives for preserving and constructing second dwelling units in exchange for housing homeless families/individuals, and promote the development of second dwelling units as a source of affordable housing.

**FINANCIAL IMPLICATIONS:**

Staff time.

**CONTACT PERSON:**

Councilmember Ben Bartlett, (510) 981-7130



Office of the Mayor

ACTION CALENDAR  
January 23, 2018

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín

Subject: Establishment of a Joint Subcommittee for the Implementation of Housing Laws

RECOMMENDATION

Adopt a Resolution establishing the formation of a Joint Subcommittee that will focus on the implementation of the California Housing Package, the Housing Accountability Act, and the recently prioritized city Short-Term Housing Action Plan (HAP). The Joint Subcommittee will be subject to the Fair Representation Ordinance and will consist of members appointed from the Zoning Adjustment Board, Housing Advisory Commission, and Planning Commission.

BACKGROUND

Berkeley and the State of California is facing an unprecedented housing affordability crisis. According to the Rent Stabilization Board, the cost to rent a two-bedroom apartment in Berkeley is \$2,600 as of the first quarter of 2017, up from \$1,600 in 5 years, totaling an increase of 62.5%. This issue has become so widespread, that the State Legislature has recently taken action to address this crisis.

**Housing Production in Berkeley**

In July 2017, Council passed an item requesting a bi-annual housing pipeline report. The first report, which was released on October 31, 2017, revealed the following statistics as of September 1, 2017:

- Number of units pending approval: 1,459 in 23 projects
- Number of units approved<sup>1</sup>: 1,070 in 19 projects
- Number of units with building permit: 525 in 9 projects
- Number of units with Certificate of Occupancy<sup>2</sup>: 910 in 13 projects

The Regional Housing Needs Allocation has set a goal of creating 2,959 units of housing between January 1, 2014 and October 31, 2022. So far, Berkeley has achieved 48% of this goal set out by the Association of Bay Area Governments, including the following breakdown by income level:

- Extremely Low Income (<31% AMI): 0%

<sup>1</sup> Projects that have received a zoning permit but not a building permit since 1999.

<sup>2</sup> Projects that have received a Certificate of Occupancy after 2014.

- Very Low Income (31-50%): 34%
- Low Income (51-80%): 15%
- Moderate Income (81-120%): 0%
- Above Moderate Income (>120%): 91%

### **State Response to Housing Crisis**

In September 2017, Governor Jerry Brown signed into law 15 bills relating to housing, including many that have a direct impact on cities.

Two of these laws aim to reduce the time it takes for developments to be approved and constructed. SB 35 compels cities that do not meet their regional housing goals to streamline development approvals. AB 879 calls upon cities to reduce the time it takes for developments to be built once they are approved.

AB 73 and SB 540 both provide cities money when they create a neighborhood plan for more residential development, so long as at least 20% of housing goes to low and middle-income residents, and projects are approved without delay. The City may be able to acquire such funds to assist in the Adeline and San Pablo Avenue planning processes.

AB 1505, known as the “Palmer Fix”, allows cities to once again mandate inclusionary zoning, which has been a powerful tool in the creation of permanent affordable housing. The 2009 *Palmer/Sixth Street Properties v. City of Los Angeles* case decided that Costa-Hawkins overruled local inclusionary zoning laws, wiping out such laws overnight, including Berkeley’s, which was established in 1986.

SB 167, AB 678, and AB 1515 provide amendments that strengthen the Housing Accountability Act, which prevents cities from denying housing projects if they meet certain zoning requirements. AB 72 gives the housing department and Attorney General more power to investigate cities that do not follow through on their housing plans.

### **Establishment of a Joint Subcommittee**

The proposed Joint Subcommittee made up of members from the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission since each commission has a direct interest and role in the implementation of housing policy. The Joint Subcommittee will focus on the implementation of various state laws around housing, land use laws, density bonus, and the Housing Accountability Act, as well as the recently passed city Short-Term Housing Action Plan. The Subcommittee shall complete its work by January 2020. Staff shall forward the Joint Subcommittee’s recommendations to each parent Commission for comment, and bring the Joint Subcommittee’s recommendations to the City Council for consideration by the end of March 2020, along with comments by any parent commissions.

The Joint Subcommittee is subject to the Fair Representation Ordinance, B.M.C. Sections 2.04.030-2.04.130. Each Councilmember will select one member from the

following list of commission members recommended by each of the aforementioned commissions.

Zoning Adjustments Board

- Teresa Clarke
- Shoshana O'Keefe
- Carrie Olson

Housing Advisory Commission

- Luis Amezcua
- Matthew Lewis
- Igor Tregub
- Marian Wolfe

Planning Commission

- Benjamin Beach
- Christine Schildt
- Rob Wrenn
- Alternate: Jeff Vincent

The Subcommittee should function as a working group, with representation from all affected commissions. Pursuant to Resolution No. 61,312-N.S., all meetings of the Subcommittee would be open to the public and accessible, and subject to the requirements of the Brown Act.

FINANCIAL IMPLICATIONS

Unknown.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

## RESOLUTION NO. ##,###-N.S.

ESTABLISHING A JOINT SUBCOMMITTEE FOR THE IMPLEMENTATION OF STATE  
HOUSING LAWS

WHEREAS, Berkeley and California is facing an unprecedented housing affordability crisis; and

WHEREAS, rents for a two bedroom apartment in Berkeley have risen by 62.5% over the past five years; and

WHEREAS, Berkeley has so far achieved 48% of its housing allocation goals for 2014-2022 set out by the Association of Bay Area Governments, including 0% for extremely low income and moderate income; and

WHEREAS, many residential developments that have received zoning approval have yet to receive a building permit; and

WHEREAS, to address the rising crisis of housing in the State of California, 15 state bills were signed into law, with many dealing with how local municipalities respond to the development of new units; and

WHEREAS, issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining need to be addressed by the City to be compliant with state law and to take advantage of new opportunities for the development of affordable housing; and

WHEREAS, because the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission have policy and quasi-judicial powers around housing, it would be beneficial for representatives of these commissions to meet jointly to develop policies for consideration by the Planning Commission and City Council; and

WHEREAS, community input is of vital importance in the review and implementation of these housing policies, and such input can be encouraged by regular publicly-noticed meetings of the Task Force; and

WHEREAS, the Joint Subcommittee should be comprised of nine voting members, with three representatives from each commission; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley does hereby establish a Joint Subcommittee composed of 3 members from the Zoning Adjustments Board, Housing Advisory Commission, Planning Commission, in addition to alternates from each Commission.

BE IT FURTHER RESOLVED that the Joint Subcommittee members shall be appointed from the list of commission members recommended by each of the aforementioned Commissions as listed below, consistent with the Fair Representation Ordinance:

Zoning Adjustments Board:

Teresa Clarke, Shoshana O'Keefe, Carrie Olson

Housing Advisory Commission:

Luis Amezcua, Matthew Lewis, Igor Tregub, Marian Wolfe

Planning Commission:

Benjamin Beach, Christine Schildt, Rob Wrenn (Alternate: Jeff Vincent)

BE IT FUTHER RESOLVED that the Joint Subcommittee shall complete its work by January 2020. Staff shall forward the Joint Subcommittee's recommendations to each parent Commission for comment, and bring the Joint Subcommittee's recommendations to the City Council for consideration by the end of March 2020, along with comments by any parent commissions.



Housing Advisory Commission

## Draft Proposed by Commissioner Thomas Lord

ACTION CALENDAR  
January 23, 2018

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission

Subject: Regarding a Joint Subcommittee for the Implementation of Housing Laws

### RECOMMENDATION

The Housing Advisory Commission enthusiastically supports the establishment of a Joint Subcommittee for the Implementation of Housing Laws as described in “Draft Item 40” of the January 8, 2018 packet of the City Council Agenda Committee.

The Housing Advisory offers the following correction and advise regarding the membership of the subcommittee:

1. The draft item incorrectly asserts that that the HAC recommended particular members for the proposed Joint Subcommittee. The draft item says that these recommendations are: Luise Amezcua, Matthew Lewis, Igor Tregub, and Marian Wofle. In truth, the HAC has never contemplated the membership of the proposed Joint Subcommittee, and has never taken any action recommending anyone for the Joint Subcommittee.
2. The HAC recommends that, in keeping with the spirit and letter of the Fair Representation Ordinance (see B.M.C. 2.04.030 – 2.04.130), each Councilmember shall make an equal number of appointments to the Joint Subcommittee, drawing freely from the full rosters of the parent bodies (namely the Housing Advisory, Planning, and Zoning Commissions). In particular, the Housing Advisory Commission objects to the restriction of appointees to just 11 candidates identified by the Mayor. The Housing Advisory Commission does not believe that City Commissions have the power to restrict the appointments made by City Council members. Furthermore, Council itself may not bypass the the Fair Representation Ordinance unless by changing the actual law itself.

### FISCAL IMPACTS OF RECOMMENDATION

None.

### CURRENT SITUATION AND ITS EFFECTS



[Title of Report]

The draft item submitted to the City Council Agenda Committee is factually incorrect regarding Commission recommendations. Additionally, it proposes to restrict membership to eleven people named by the Mayor.

#### BACKGROUND

On October 5, 2017, the Housing Advisory Commission *did* establish an ad-hoc subcommittee for the specific purpose of reporting back to the HAC possible changes relating to a City Density Bonus. The members of that subcommittee are the same names listed by the Mayor. This subcommittee was explicitly presented to the HAC as *not* the Joint Subcommittee, and as *not* having the broad subject matter jurisdiction proposed for the Joint Subcommittee.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### RATIONALE FOR RECOMMENDATION

To clarify the record and the HAC's view on Fair Representation.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission's Report. [OR] Refer to the budget process.

**Note: If the City Manager does not (a) concur, (b) takes any other position, or (c) refer to the budget process, a council action report must be prepared. Indicate under the CITY MANAGER heading, "See companion report." Any time a companion report is submitted, both the commission report AND the companion report are Action reports.**

#### CONTACT PERSON

[Name], [Title], [Department], [Phone Number]

Attachments: [Delete if there are NO Attachments]

1: [Title or Description of Attachment]

2: [Title or Description of Attachment]

HOUSING ADVISORY COMMISSION  
12/7/2017

To: Housing Advisory Commission  
From: Chairperson Igor Tregub  
Subject: Recommendations to the Berkeley City Council on Supply of Rent Controlled Units Following Disaster; Possible Areas of Collaboration with Disaster and Fire Commission

RECOMMENDATIONS

- 1) Send an action item to the Berkeley City Council requesting a referral to applicable city departments and commissions to study whether applicable City of Berkeley ordinances within its purview (i.e., not the Rent Board's) ensure that the inventory of rent-controlled units does not diminish after a disaster if possible (if / once multifamily buildings are rebuilt) and to explore potential language for such ordinances that would meet the aforementioned intent.
- 2) Send an action item to the Berkeley City Council requesting a referral to applicable city departments and commissions to assess the feasibility of revising the Berkeley Demolition Ordinance to allow for tenants to be able to receive the same relocation benefits that are enumerated in the Relocation Ordinance and to explore additional revisions to the Berkeley Demolition Ordinance, such as expanding the criteria for tenants' ability to receive its protections to disasters and fires.
- 3) Additionally, the Housing Advisory Commission is asked to provide feedback on possible areas of collaboration with the Berkeley Disaster and Fire Commission

SUMMARY

I have been in communication with Commissioner Couzin of the Berkeley Disaster and Fire Commission about potential areas of collaboration. The following memo outlines these items.

- Develop an ordinance to require that apartment buildings with three or more residents maintain sufficient water to supply their residents with water for three days in the event of a disaster.
- When the Office of Emergency Services (OES) is setting up emergency caches at multi-unit buildings as part of the Community Resilience Center (CRC) program, input from renters must be integrated into the conversation (for example, when discussing what equipment to store), and access to emergency caches must be given to a minimum of two on-site residents.

- Develop an ordinance to require that in multi-unit apartment buildings with no on-site manager, a minimum of two on-site residents must be given access to the utility shut-off valves.
- Require that the OES offer a certain minimum of CERT trainings per year to apartment-dwellers at their apartment location
- In every disaster-related guideline, outreach, or requirement for property owners (for example, soft-story retrofit requirement), develop outreach materials that speak to renters on how this guideline affects them.
- Ensure that the City of Berkeley's ordinances that are within its purview (i.e., not the Rent Board's) ensure that, if possible, the inventory of rent-controlled units does not diminish after a disaster (if / once multifamily buildings are rebuilt).
- Explore the feasibility of revising the Berkeley Demolition Ordinance to allow for tenants to be able to receive the same relocation benefits that are enumerated in the Relocation Ordinance. Explore additional revisions to the Berkeley Demolition Ordinance, such as expanding the criteria for tenants' ability to receive its protections to disasters and fires.
- Refine the Berkeley Rental Housing Safety Program (RHSP) and integrate seismic safety considerations into the RHSP checklist.
- Consider phasing in Berkeley's Soft Story Program to include multifamily buildings of four and/or fewer units. Ensure that financing opportunities are available for property owners that are commensurate with this proposal.
- Create an ordinance that requires all rental agreements in Berkeley to allow renters to brace furniture and strap the hot water heater so that it doesn't fall over in an earthquake, and make this effective for existing as well as new rental agreements. [Note: This may be within the Rent Board's purview].

### BACKGROUND DISCUSSION AND RATIONALE FOR RECOMMENDATION

Of the items enumerated above, the recommendations below are both within the purview of the Housing Advisory Commission and concern subject matter for which our commission would likely have the lead jurisdiction of the two commissions.

- 1) Send an action item to the Berkeley City Council requesting a referral to applicable city departments and commissions to study whether applicable City of Berkeley ordinances within its purview (i.e., not the Rent Board's) ensure that the inventory of rent-controlled units does not diminish after a disaster if possible (if / once multifamily buildings are rebuilt) and to explore potential language for such ordinances that would meet the aforementioned intent.

While a stated preference shared by many community stakeholders is to require that the same number of rent controlled units be replaced in a rebuilt property, the rebuilding is not a foregone conclusion. One possibility if a rent controlled property is destroyed is that the owner elects to collect the insurance money

from the loss and walk away, rather than rebuilding. However, if an owner rebuilds with the same number of units - given today's construction costs - it may not be financially feasible to offer the new units at the same controlled rents and insure financial feasibility.

Another possibility is that the existing property owner or a new owner wants to build a larger building. Then I think we could make a case that additional inclusionary below-market rate (BMR) units would need to be provided, and payment of in-lieu fees would be discouraged. In that way, Berkeley would retain the same number of BMR units.

It is recommended that this issue be studied by the City to determine the financial feasibility of a requirement that stipulates that the same number of rent-controlled units be replaced in a new building.

- 2) Send an action item to the Berkeley City Council requesting a referral to applicable city departments and commissions to assess the feasibility of revising the Berkeley Demolition Ordinance to allow for tenants to be able to receive the same relocation benefits that are enumerated in the Relocation Ordinance and to explore additional revisions to the Berkeley Demolition Ordinance, such as expanding the criteria for tenants' ability to receive its protections to disasters and fires.

The recent fires in Sonoma, Napa, and Lake Counties – and elsewhere – have prompted renewed interest in the first item. News articles and clips like the one contained in Footnote 1<sup>1</sup> point to the displacement pressures that tenants could face years after a major disaster should one occur in our city. The question has previously been raised, but not definitively answered, as to whether units in damaged buildings, if rebuilt following a disaster, will retain their rent-controlled status. In one recent case the rebuilt units did remain under rent control and were subject to the Good Cause for Eviction Ordinance,<sup>2</sup> but in a different instance that required the remaining building to be rebuilt from the ground up, the units were no longer subject to rent stabilization upon issuance of a new certificate of occupancy.<sup>3</sup> An October 2014 decision in *Burien LLC vs. Wiley*, however, suggests that if the previous use of the property was residential and remains residential, it may be subject to rent control, even if a new certificate of occupancy is issued.<sup>4</sup> (It should be noted, however, that this case dealt with the attempted conversion of existing rental housing to condominium, a different scenario than the rebuilding of housing following a fire).

The second item is closely related and concerns areas of the Demolition and Relocation Ordinances that were not resolved upon their respective revisions in 2011

<sup>1</sup> <http://www.ktvu.com/news/294351705-video> - "2nd Wave of North Bay Fire Victims – Renters Getting Evicted," dated November 16, 2017, KTVU.

<sup>2</sup> <http://www.berkeleyside.com/2013/10/31/fire-damaged-berkeley-apartments-to-stay-rent-controlled/>

<sup>3</sup> [https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/2441\\_Haste.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2441_Haste.aspx)

<sup>4</sup> <http://caselaw.findlaw.com/ca-court-of-appeal/1681458.html>

and 2009. These issues have made the process of understanding what the relocation payment amount is in the event of a temporary relocation, such as due to a fire that does not fully damage the building but requires rehabilitation.<sup>5</sup> In the case of a different fire, which largely consumed the building, its former occupants were not entitled to receive any dislocation payments at all, as the Demolition Ordinance prevailed.<sup>6</sup>

The City of Berkeley ought to study these issues in greater length and come up with a comprehensive assessment and set of recommendations.

### PRIOR ACTIONS TAKEN

The Housing Advisory Commission has occasionally collaborated on areas of mutual concern at the Berkeley Disaster and Fire Commission's request (most recently, on the aforementioned pilot for emergency caches stored in multifamily buildings. In addition, the Commission has weighed in on previous drafts of the Relocation and Demolition Ordinances.

### ENVIRONMENTAL EFFECTS

To the extent that a ready supply of multi-family housing can be rebuilt along as urban infill and remain affordable to renters following a fire or other natural disaster, adopting these actions may have impacts in line with the City of Berkeley's Climate Action Plan, particularly around reductions in vehicle miles traveled and greenhouse gas emissions.

### FISCAL IMPACTS OF RECOMMENDATION

In the short term, staff time is anticipated. In the longer term, the fiscal impacts are as yet unknown.

### CONTACT PERSON

Igor Tregub

ITregub@cityofberkeley.info

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<sup>5</sup> <http://www.berkeleyside.com/2015/12/10/tenants-scramble-to-relocate-after-dwight-way-fire/>

<sup>6</sup> <http://www.berkeleyside.com/2011/12/07/sequoia-fire-aftermath-cause-rights-future-under-scrutiny/>



Housing Advisory Commission

## Draft Proposed by Smoke-Free Housing Subcommittee

[CONSENT OR ACTION]

CALENDAR

[Meeting Date (MM dd,  
yyyy)]

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission

Subject: Help the HAC to improve the Smoke-Free Residential Housing Ordinance

### RECOMMENDATION

The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance as follows:

1. By responding to the HAC's questions enumerated below with any *readily available* responsive information.
2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed below.

### FISCAL IMPACTS OF RECOMMENDATION

It is the Commission's intent to ask for information that may already be readily available, and to gather public input on-line, in a low cost way. This may consume some amount of staff time, but it is the Commission's intent that the amount of staff time consumed have minimal fiscal impact.

### CURRENT SITUATION AND ITS EFFECTS

On December 17, 2013, by unanimous vote, City Council passed Ordinance No. 7,321-N.S., amending and adding to Berkeley Municipal Code Section 12.70 to prohibit smoking at multi-unit residential properties. On September 7, 2017, the HAC received a letter and heard public comment from Berkeley resident Carol Denny about ways in which the ordinance was sometimes ineffective in practice.

### BACKGROUND

On October 5, 2017 the HAC voted unanimously in favor of:

*The creation of a Smoke-Free Housing Subcommittee, whose charge is to consider updates to the City's Smoke-Free Housing Ordinance and existing implementation of the ordinance, to propose revisions to these to improve the accessibility and*

[Title of Report]

[CONSENT or ACTION] CALENDARCALENDAR

[Meeting Date (MM dd, yyyy)]

*effectiveness of the ordinance, and to propose methods for obtaining public input into the needs of the ordinance. ...*

The subcommittee reported back with these information-gathering questions for the City Manager:

1. How many complaints under this ordinance have been received by the City?
2. How many warning letters have been sent? How many fines have been imposed?
3. Have there been any appeals to fines imposed?
4. Is the City (including the Rent Stabilization Board) presently aware of any evictions that have taken place as a result of smoking complaints?
5. Is it practical and and beneficial to unify the smoke-free residence complaint process with the City's general code enforcement process? If not, what are the obstacles? (Currently, complaints under the smoke-free residence must be sent, by mail, to the City of Berkeley, Tobacco Prevention Program. Many other forms of complaint can be submitted to the City's Code Enforcement Officer via an on-line form.)

The subcommittee recommended on-line solicitation of public input via the "Berkeley Considers" mechanism, *suggesting* questions such as:

1. Did you know that smoking is prohibited in all multi-unit residential buildings, including in common areas, throughout Berkeley?
2. Do you agree that freedom, at home, from exposure to second-hand smoking is a right?
3. Have you or someone you know experienced problems with second-hand smoke caused by a resident of the same multi-unit property?
4. Have you ever made a complaint under Berkeley's existing law? (If so, please comment on the outcome of your complaint. If you have avoided making a complaint, please comment as to why.)
5. Is it fair to ask landlords / property owners to remind their tenants of their obligation not to smoke in a multi-unit residence?
6. If a complaint can not clearly identify who it is that is smoking, is it fair to ask landlords / property owners to take reasonable steps to help identify the smoker?

[Title of Report]

[CONSENT or ACTION] CALENDARCALENDAR

[Meeting Date (MM dd, yyyy)]

7. Law in some cities permits the establishment of designated smoking areas where other people are unlikely to be harmed by the second-hand smoke produced. Should Berkeley law contain a similar provision?

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### RATIONALE FOR RECOMMENDATION

The HAC hopes to gather information that will assist the Commission in further evaluating the ordinance and its enforcement. With this additional information, the Commission will consider further recommendations to City Council.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission's Report. [OR] Refer to the budget process.

**Note: If the City Manager does not (a) concur, (b) takes any other position, or (c) refer to the budget process, a council action report must be prepared. Indicate under the CITY MANAGER heading, "See companion report." Any time a companion report is submitted, both the commission report AND the companion report are Action reports.**

#### CONTACT PERSON

[Name], [Title], [Department], [Phone Number]

Attachments: [Delete if there are NO Attachments]

1: [Title or Description of Attachment]

2: [Title or Description of Attachment]





Draft Proposed by Commissioner Amir Wright

Housing Advisory Commission

[CONSENT OR ACTION]  
CALENDAR

[Meeting Date (MM, dd, yyyy)]

To: Honorable Mayor and Members of the City Council  
From: Housing Advisory Commission  
Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission  
Subject: Adopt a More Student Housing Now Resolution, to facilitate both University and private housing investment in the campus area as soon as possible

RECOMMENDATION:

That the City Council adopt a More Student Housing Now Resolution, to facilitate both University and private housing investment in the campus area as soon as possible, by prioritizing Planning Commission and City Council action to remove impediments.

BACKGROUND:

The student housing shortage is the foremost City issue mentioned by Berkeley students. This problem has emerged into a major crisis affecting many students. In light of the crisis, UC President Napolitano required each UC campus to prepare a housing plan. UC Berkeley Chancellor Christ spearheaded the founding of a comprehensive student housing plan. They both implemented significant steps towards addressing the student housing shortage. Berkeley should praise and recognize their commitment.

Berkeley should also support student requests for prompt City and University short and long term actions. Outdated zoning restrictions in Berkeley severely undermine the potential to deliver thousands of urgently needed student homes in the campus area. Although exempt by state law, the University indicates they want to try to comply with the city's regulations. It is crucial that the City of Berkeley remove impediments to student housing developments to ensure that Berkeley remains the top public destination for the world's brightest minds.

The primarily student residents in the immediate area between Dwight to Bancroft, and from College to Fulton have repeatedly supported more housing in their neighborhood. Increased density close to campus reduces air pollution and traffic congestion, and encourages pedestrian, transit and bicycle travel.

FINANCIAL IMPLICATIONS:  
Minimal.

ENVIRONMENTAL SUSTAINABILITY:  
Multiple Climate Action Plan goals would be achieved if this is implemented.

CONTACT PERSON:  
[Name], [Title], [Department],

ATTACHMENTS:  
Request to the Planning Commission

Draft Proposed by Commissioner Amir Wright

Dear Planning Commissioners,

I respectfully request the Planning Commission to dedicate one February meeting to the topic of student housing due to the severity of the housing shortage in the campus area. Currently, regulations and laws in the City of Berkeley are preventing people from building urgently needed student housing in order to accommodate the growing student population. The City Council has approved multiple planning referrals in the last few years relating to housing in the Campus area that are required to be voted on by the Planning Commission before the City Council can take action.

For the purposes of avoiding additional delays in the implementation of a Council item that aims to increase student and residential housing in the Southside area, I recommend specific policies should be listed on the February agenda. These policies will serve as potential action items-- including the student housing related items that have been referred to the Planning Commission by the City Council. Additionally, suggestions on how to remove city obstacles to student housing should be considered.

Student housing-related Planning Referrals from City Council include the following:

- To facilitate primarily Student Housing by a Twenty Feet Height Increase and Adjust floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft & from College to Fulton (Date: 10/31/2017)
- for a Pilot Density Bonus Program for the Telegraph Avenue Commercial District (Date: 05/30/2017)
- to create a use permit process to allow non-commercial use on the Ground Floor in C-T Telegraph Commercial District excluding Telegraph Ave (Date: 07/11/2017. This item is based on an original item submitted by Susan Wengraf on 01/20/2015)
- To Develop an Ordinance Requiring New Residential Buildings to include essential wheelchair-accessible modifications, such as Auto-door Openers & Roll-in Shower (Date: 09/15/2015 & 07/11/2017)

I also request consideration on the following policy proposal:

- City consider dedicated revenue stream from campus area projects to fund affordable housing units provided by Berkeley Student Cooperative or other nonprofits, with a special priority for housing homeless students
- City consider allowing conversion of vacant Telegraph area commercial space to housing only from Dwight to Bancroft & from College to Fulton. (The commercial strip on Telegraph Ave is not included)
- Expansion of Car-Free Overlay Area

By scheduling this commission meeting for February, the core constituency being affected by these policies--the students--will be able to voice their opinions on this crisis. I look forward to working with you to promptly address this important issue. Although I am a member of the Housing Advisory Commission, I am sending this to you speaking solely as an individual, not on behalf of the HAC.

Thank you,  
Amir Wright



Housing Advisory Commission

Draft Proposed by Commissioner Thomas Lord

ACTION CALENDAR  
January 23, 2018

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission

Subject: Provide timely input regarding Senate Bill 827's by-right development provisions

RECOMMENDATION

The Housing Advisory Commission respectfully asks the City Council to examine and recommend against certain provisions of SB827, which is titled "An act to add Section 65917.7 to the Government Code, relating to land use." and which was authored by Senators Weiner, Skinner, and Ting.<sup>1</sup>

To this end, the HAC *suggests* that Council form an ad hoc subcommittee to review the bill, that that subcommittee be authorized to meet in discussion with at least the Housing Advisory, Landmark, Planning, and Zoning Commissions. And that the Council ad hoc subcommittee report back to City Council no later than March of 2018.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

SB827 as proposed would allow, on almost every parcel in the flats of Berkeley, where residential use is permitted, the *by right* construction of residential structures:

- At least 45 to 55 feet in height (4-5 stories)
- At least 85 feet in height on parcels facing a wide street (8 stories)
- Without any restriction on unit density apart from the building code
- Without any parking requirement whatsoever

The HAC observes that passage of this bill will moot any effort by Berkeley to establish explicit and meaningful density standards.

The HAC also observes that passage of this bill will significantly increase the potential profit upside of razing and replacing existing, naturally occurring affordable housing stock, such as pre-1980 rent-stabilized stock.

1

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB827](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB827)

[Title of Report]

### ENVIRONMENTAL SUSTAINABILITY

The environmental impact of the passage of SB827 is difficult to contemplate.

### RATIONALE FOR RECOMMENDATION

SB827 proposes a profound “upzoning” of nearly all of Berkeley, but there is no indication Senators have given any consideration to the socially harmful consequences of such an action.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission’s Report. [OR] Refer to the budget process.

**Note: If the City Manager does not (a) concur, (b) takes any other position, or (c) refer to the budget process, a council action report must be prepared. Indicate under the CITY MANAGER heading, “See companion report.” Any time a companion report is submitted, both the commission report AND the companion report are Action reports.**

### CONTACT PERSON

[Name], [Title], [Department], [Phone Number]

Attachments: [Delete if there are NO Attachments]

1: [Title or Description of Attachment]

2: [Title or Description of Attachment]



LEGISLATIVE INFORMATION

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SHARE THIS:



Date Published: 01/03/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

**SENATE BILL****No. 827**

**Introduced by Senator Wiener**  
**(Principal coauthor: Senator Skinner)**  
**(Principal coauthor: Assembly Member Ting)**

**January 03, 2018**

An act to add Section 65917.7 to the Government Code, relating to land use.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 827, as introduced, Wiener. Planning and zoning: transit-rich housing bonus.

The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would authorize a transit-rich housing project to receive a transit-rich housing bonus. The bill would define a transit-rich housing project as a residential development project the parcels of which are all within a 1/2 mile radius of a major transit stop or a 1/4 mile radius of a high-quality transit corridor, as those terms are further defined. The bill would exempt a project awarded a housing opportunity bonus from various requirements, including maximum controls on residential density or floor area ratio, minimum automobile parking requirements, design standards that restrict the applicant's ability to construct the maximum number of units consistent with any applicable building code, and maximum height limitations, as provided.

The bill would declare that its provisions address a matter of statewide concern and apply equally to all cities and counties in this state, including a charter city.

By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

<https://leginfo.legislature.ca.gov/faces/billTextClie...>

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The Legislature finds and declares that this act addresses a matter of statewide concern and shall apply equally to all cities and counties in this state, including charter cities.

**SEC. 2.** Section 65917.7 is added to the Government Code, to read:

**65917.7.** (a) As used in this section, the following definitions shall apply:

(1) "Block" has the same meaning as defined in subdivision (a) of Section 5870 of the Streets and Highways Code.

(2) "High-quality transit corridor" means a corridor with fixed route bus service that has service intervals of no more than 15 minutes during peak commute hours.

(3) "Transit-rich housing project" means a residential development project the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a high-quality transit corridor. A project shall be deemed to be within a one-half mile radius of a major transit stop or a one-quarter mile radius of a high-quality transit corridor if both of the following apply:

(A) All parcels within the project have no more than 25 percent of their area outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a high-quality transit corridor.

(B) No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a high-quality transit corridor.

(4) "Major transit stop" has the same meaning as defined in Section 21064.3 of the Public Resources Code.

(b) Notwithstanding any local ordinance, general plan element, specific plan, charter, or other local law, policy, resolution, or regulation, a transit-rich housing project shall receive a transit-rich housing bonus which shall exempt the project from all of the following:

(1) Maximum controls on residential density or floor area ratio.

(2) Minimum automobile parking requirements.

(3) Any design standard that restricts the applicant's ability to construct the maximum number of units consistent with any applicable building code.

(4) (A) If the transit-rich housing project is within either a one-quarter mile radius of a high-quality transit corridor or within one block of a major transit stop, any maximum height limitation that is less than 85 feet, except in cases where a parcel facing a street that is less than 45 feet wide from curb to curb, in which case the maximum height shall not be less than 55 feet. If the project is exempted from the local maximum height limitation, the governing height limitation for a transit-rich housing project shall be 85 feet or 55 feet, as provided in this subparagraph.

(B) If the transit-rich housing project is within one-half mile of a major transit stop, but does not meet the criteria specified in subparagraph (A), any maximum height limitation that is less than 55 feet, except in cases where a parcel facing a street that is less than 45 feet wide from curb to curb, in which case the maximum height shall not be less than 45 feet. If the project is exempted from the local maximum height limitation, the governing height limitation for a transit-rich housing project shall be 55 feet or 45 feet, as provided in this subparagraph.

(C) For purposes of this paragraph, if a parcel has street frontage on two or more different streets, the height maximum pursuant to this paragraph shall be based on the widest street.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Housing Advisory Commission

1/18/2018

To: Housing Advisory Commission  
From: Commissioner Matthew Lewis  
Subject: Schedule an agenda item for February on the city's short term rental ordinance enforcement strategy

Recommendations

- 1) Schedule for an agenda item for February 1 to discuss the city's strategy for enforcing its short term rental ordinance, as well as potentially taking action on the topic.
- 2) Request that the relevant city staff members attend the February 1 meeting of the Housing Advisory Commission to give a presentation and answer questions on this topic. Additionally, city staff are requested to send written materials to the commission via the agenda packet for commissioners to better familiarize themselves with this topic.

Background

Cities throughout California and the United States have had varying degrees of success at enforcing their short term rental ordinances. In Berkeley, for instance, there has been recurring issues with large landlords illegally converting all or significant numbers of units in rent-controlled units into full-time "Airbnb hotels."



In July 2016 (prior to the adoption of the short term rental ordinance, until which time short term rentals were illegal), the city council directed city staff to initiate enforcement when the city gets receives at least three verified complaints about property owners, individuals or companies that rent out multiple units on a short-term basis. In early 2017, the city Council adopted the short term rental ordinance, legalizing rentals in certain units. Starting September 1, 2017, Berkeley residents who host short-term rentals have been explicitly required to submit the 12% Transient Occupancy Tax (as well as a 2% enforcement fee and a \$220.00 application fee). Beginning January 15, 2018, short term rental hosts are required to register with the city.

As a stakeholder, the Housing Advisory Commission should be involved in overseeing this issue. Scheduling such an item will better familiarize commissioners (many of whom are relatively new to the commission) with the issue, as well as provide an opportunity to give feedback on the issue.

**From:** Igor Tregub <itregub@gmail.com>  
**Sent:** Monday, December 18, 2017 7:30 AM  
**To:** All Council  
**Cc:** City Clerk; Manager, C; Housing Advisory Commission  
**Subject:** Housing Advisory Commission Communication on Berkeley Way Project (Item 46)

Honorable Mayor and Members of the City Council,

At its December 7, 2017 Housing Advisory Commission meeting, the Commission took the following action:

**Discussion and Possible Action on Recommendations for Berkeley Way Project**

Public Speakers: 5

Action: M/S/C (Tregub/Amezcuca) to direct the Chair to send a letter to the City Council, to accompany the Staff information report, to provide a general statement of principles that places housing as a priority over parking, including support for housing and environmental concerns, including those identified in the Berkeley Climate Action Plan.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Owens, Tregub, Wolfe, and Wright. Noes: None. Abstain: Lord. Absent: None.

In accordance with the above, to the extent that the cost of providing replacement parking on the project may impact the ability of the project to be fully funded, I urge you to ensure that housing is a higher priority to parking on the site of this project. This action would also be consistent with Berkeley Climate Action Plan goals, at a time when, per your December 7, 2017 worksession report, "community emissions would need to be reduced by an additional 21% to meet the interim 2020 target." As you know, affordable housing along transit corridors and within Priority Development Areas - exactly the type of project proposed in Berkeley Way - is a critical contributor to the lowering of vehicle miles traveled and greenhouse gas emissions. As a corollary, the inducement of further use of internal combustion engine vehicles through additional parking, or even one-for-one parking replacement is inimical to these goals.

Berkeley Way has been discussed at the Housing Advisory Commission on several occasions, most recently on June 1, 2017, when it discussed a Council item that was later approved that accords priority to this project in the Housing Trust Fund [1]. The site currently contains a surface-level parking lot owned by the City of Berkeley. The issue of how much replacement parking is feasible has been raised both at the Commission and at other public forums. The site is in a transit-accessible location, one block from the University Avenue and Shattuck Way intersection (with multiple AC Transit stops and the Downtown Berkeley BART station within several blocks of it).

In our original affirmation of priority to housing over parking, in 2014, the Housing Advisory Commission recommended that, at most, one level of subterranean replacement of parking should be considered [2] and had expressed concern that loading up the project with parking may render the proposal infeasible [3]. However, it appears that even one level of replacement parking may hamper the viability of this project.

Please take decisive action to prioritize housing over parking on this project so that it can move forward as expeditiously as possible.

Respectfully,

Igor Tregub  
Chair, Housing Advisory Commission

[1] [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/06\\_June/Documents/2017-06-13\\_Item\\_17\\_Prioritizing\\_BRIDGE%E2%80%99s.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/06_June/Documents/2017-06-13_Item_17_Prioritizing_BRIDGE%E2%80%99s.aspx)

[2] <http://www.berkeleyside.com/wp-content/uploads/2017/06/2016-09-27-Item-28-ProposedDevelopment.pdf>

[3] <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKEwjinpS9odPXAhUHKWMKHc7WBxgQFgg7MAM&url=http%3A%2F%2Fwww.berkeleyside.com%2Fwpcontent%2Fuploads%2F2017%2F06%2F2016-09-27-Item-28-ProposedDevelopment.pdf&usg=AOvVaw1wRp-hmRFbWw0UwD4VrUQO>

## 2018 Housing Advisory Commission Meeting Dates South Berkeley Senior Center

Month	Meeting Day and Date	Time
<b>January 2018</b>	Thursday	7:00 pm
	January 18	
<b>February 2018</b>	Thursday	7:00 pm
	February 1	
<b>March 2018</b>	Thursday	7:00 pm
	March 1	
<b>April 2018</b>	Thursday	7:00 pm
	April 5	
<b>May 2018</b>	Thursday	7:00 pm
	May 3	
<b>June 2018</b>	Thursday	7:00 pm
	June 7	

Month	Meeting Day and Date	Time
<b>July 2018</b>	Wednesday	7:00 pm
	July 11	
<b>August 2018</b>	Recess	
<b>September 2018</b>	Thursday	7:00 pm
	September 6	
<b>October 2018</b>	Thursday	7:00 pm
	October 4	
<b>November 2018</b>	Thursday	7:00 pm
	November 1	
<b>December 2018</b>	Recess	